

SENATE BILL 1931

By Woodson

AN ACT to amend Tennessee Code Annotated, Title 47,
Chapter 25, relative to biofuels and petroleum.

WHEREAS, it is a stated policy of the United States of America government and the state of Tennessee to lessen the reliance of our citizens upon foreign produced and imported oil; and

WHEREAS, the federal government has adopted policies which have encouraged the blending of ethanol and other agriculturally produced products with petroleum based fuels in order to supplement such fuel in a manner which benefits the agricultural industry and lessens reliance upon foreign imported petroleum products; and

WHEREAS, the state of Tennessee has encouraged the agricultural production of crops in this state for conversion into ethanol and biodiesel additives to expand the use of these products in commerce and to lessen the dependency on imported petroleum; and

WHEREAS, the state of Tennessee has encouraged, through incentives, the construction of ethanol producing facilities in this state to convert Tennessee agricultural products into fuel additives; now, therefore

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1 Tennessee Code Annotated, Title 47, Chapter 25, is amended by adding a new part thereto:

Section 47-25-2001. This part shall be known and may be cited as the "Tennessee Renewable Fuels Blending Act of 2009".

Section 47-25-2002. As used in this part, unless the context otherwise requires:

(1) "Ethanol" also known as denatured fuel ethanol, means nominally anhydrous ethyl alcohol meeting ASTM D 4806 standards. Ethanol is intended to be blended with

gasoline for use as a fuel in a spark-ignition internal combustion engine. The denatured fuel ethanol is first made unfit for drinking by the addition of Bureau of Alcohol, Tobacco, and Firearms (BATF) approved substances before blending with gasoline;

(2) "Permissive supplier" means any person who is not subject to the general taxing jurisdiction of this state, but who:

(A) Is a position holder in a federal qualified terminal located outside this state;

(B) Is registered for transactions in taxable motor fuels under § 4101 of the Internal Revenue Code in the bulk transfer/terminal distribution system; and

(C) Acquires products in such out-of-state terminals from position holders in transactions that otherwise qualify as two-party exchanges;

(3) "Person" means a natural person, partnership, firm, association, corporation, limited liability company, court appointed representative, state, political subdivision or any other entity, group, or syndicate;

(4) "Position holder" means the person who holds the inventory position in petroleum products in a terminal, as reflected in the records of the terminal operator. A person holds the inventory position in petroleum products when that person has a contract with the operator for the use of storage facilities and terminaling services for petroleum products at the terminal. "Position holder" includes a terminal operator who owns petroleum products in the terminal;

(5) "Refiner" means a person that owns, operates, or otherwise controls a refinery within the United States;

(6) "Refinery" means a facility used to produce motor fuel from crude oil, unfinished oils, natural gas liquids, or other hydrocarbons, and from which motor fuel may be removed by pipeline, by marine vessel, or at a rack;

(7) “Retailer” means a person who engages in the business of selling or distributing petroleum products to the end user within this state through a retailer station;

(8) “Retail station” means any service station, garage, truck stop or other outlet dispensing motor fuel from a container equipped with a computer-type pump that measures fuel passing through it;

(9) “Supplier” means a person that meets all the following conditions:

(A) Is subject to the general taxing jurisdiction of this state;

(B) Is registered under § 4101 of the Internal Revenue Code for transactions in taxable motor fuels in the bulk transfer/terminal system; and

(C) Is one of the following:

(i) The position holder in a terminal or refinery in this state, or is one who receives fuel from a position holder within a terminal or refinery in this state;

(ii) A person who imports taxable petroleum products into this state from a foreign country;

(iii) A person who acquires taxable petroleum products from a terminal or refinery outside this state for import into this state on such person’s account; or

(iv) A person who is the receiving supplier on a two-party exchange;

(10) “Terminal” means a storage and distribution facility for taxable motor fuel, supplied by pipeline or marine vessel, that is registered as a qualified terminal by the internal revenue service;

(11) "Two-party exchange" means a transaction in which a petroleum product is transferred from one licensed supplier or licensed permissive supplier to another licensed supplier or licensed permissive supplier pursuant to an exchange agreement:

(A) Which transaction includes a transfer from the person that holds the inventory position for taxable motor fuel in the terminal as reflected on the records of the terminal operator; and

(B) The exchange transaction is completed prior to removal of the product from the terminal by the receiving exchange partner; and

(12) "Wholesaler" means an entity which acquires petroleum products from a supplier, importer, or from another wholesaler, for subsequent sale and distribution at wholesale by tank cars, transport trucks or vessels, and subsequently resells to retailers, other wholesalers or to consumers from its own or its wholly owned affiliated retail locations;

Section 47-25-2003. All refiners, suppliers and permissive suppliers in this state shall make available to any wholesaler all grades of gasoline, including regular, premium and midgrade, and all grades of diesel available at the terminal in such condition that such wholesaler may blend ethanol or other biological products to create those grades of petroleum products generally available for sale by retailers in this state. In addition, gasoline products must be made available with detergent additives in sufficient concentrations such that after the addition of ethanol, the final product meets or exceeds the Lowest Additive Concentrations as required by the United States environmental protection agency (EPA).

Section 47-25-2004. Any contract between a wholesaler and a refiner, supplier, or permissive supplier executed or renewed on or after the effective date of this act, which forbids, limits or restricts a wholesaler's ability to blend petroleum products, shall be void as against public policy.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.